



KENTUCKY REGISTRY OF ELECTION FINANCE

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ADVISORY OPINION 2010-004

Any Advisory Opinion rendered by the Registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the Advisory Opinion is required. KRS 121.135(4).

July 7, 2010

VIA FACSIMILE – 502-581-1087
AND FIRST CLASS U.S. MAIL

Mr. Sheryl G. Snyder
Frost Brown Todd LLC
400 W. Market St., 32nd Floor
Louisville, KY 40202-3363

In re: Request for Advisory Opinion (AO 2010-004)
Contribution by LLC on behalf of Members to Permanent Committee

Dear Mr. Snyder:

By letter dated June 8, 2010, you requested an Advisory Opinion from the Registry of Election Finance (“Registry”) regarding contributions by a limited liability company (“LLC”) on behalf of the LLC members to a permanent committee. The Registry received your request on June 9, 2010. Pursuant to KRS 121.135(5)(a), your request was posted for public comment on June 12, 2010. No public comments were received.

You request an Advisory Opinion in your capacity as Treasurer of the permanent committee, Frost Brown Todd Kentucky PAC (the “Committee”). You state that the Committee was created by certain members of Frost Brown Todd LLC (“FBT LLC”), a limited liability company organized under the laws of Delaware. Registry records reflect that the Committee

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registered as a permanent committee effective June 9, 2010. In addition, the Kentucky Secretary of State's Office recognizes FBT LLC as a foreign limited liability company in good standing.

You state in your request that the Committee desires to accept checks drawn on the account of FBT LLC and report the received funds as contributions from the members of FBT LLC rather than as a contribution from the FBT LLC. To that end, you specifically request an Advisory Opinion on the following question:

May the Committee accept a check drawn on the account of FBT LLC in an amount exceeding \$1,500 and report the received funds not as a contribution from FBT LLC, but as contributions from the individual members of FBT LLC according to their respective ownership interests in the law firm?

The short answer to your question is yes. KRS 121.150(10) permits an individual to contribute up to \$1,500 per year *in the aggregate* to a permanent committee (Emphasis added.). The Registry recognizes a contribution from a limited liability company on behalf of its individual members is distinguishable from a corporate contribution. The Kentucky Court of Appeals has held, "(a) limited liability company is a hybrid business entity having attributes of both a corporation and a partnership." *Patmon v. Hobbs*, 280 S.W.3d 589, 593 (Ky. App. 2009). Unlike a corporation, a limited liability company is an unincorporated entity for which citizenship is not determined by the state of organization or principal place of business, but rather by "... the citizenship of each partner or member." *Delay v. Rosenthal Collins Group, LLC*, 585 F.3d 1003, 1005 (6th Cir. 2002), *see also Carden v. Arkoma Assocs.*, 494 U.S. 185, 187-192, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). Inasmuch as FBT LLC is an unincorporated entity organized under KRS Chapter 275, consisting of individual members whose ownership interests are set forth in an operating agreement or the records of FBT LLC, a contribution from FBT LLC to the Committee is attributable to the individual members according to their respective ownership interests in the law firm. The individual contributions to the Committee must then be reported in compliance with KRS 121.180(6), which sets forth the reporting requirements for a permanent committee.

Please keep in mind that this Advisory Opinion is based on the specific facts set forth in your written request and does not cover past conduct. If you have any questions concerning this opinion, please do not hesitate to contact the Registry. Thank you.

Very truly yours,



Emily Dennis
General Counsel

Cc: Registry Members
Sarah M. Jackson, Executive Director